

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA
Plaintiff,

vs.

No. CR 10-773 JB

JOHN LEONARD TSOSIE,
Defendant.

**RESPONSE TO UNITED STATES' MOTION *IN LIMINE* FOR
PRE-TRIAL DETERMINATION OF INDIAN COUNTRY LAND STATUS**

Defendant JOHN LEONARD TSOSIE, by and through counsel, Samuel L. Winder, hereby responds in opposition to the United States' Motion *In Limine* for Pre-Trial Determination of Indian Country Land Status ("Motion"). As grounds, Mr. Tsosie asserts:

1. On May 13, 2011, the United States filed a Motion requesting a pre-trial ruling that Navajo Route 12 between mile post 30 and 40 falls within the exterior boundaries of the Navajo reservation and therefore is Indian Country.
2. In its Motion, the United States sets forth that it is "prepared to present at a pre-trial hearing the evidence necessary to demonstrate that the ten mile stretch of road between mile post 30 and 40 on Navajo route 12 falls within the exterior boundaries of the Navajo reservation." Specifically, the United States this Court issue a pre-trial determination that the stretch of road is Indian Country, and the "remaining question for trial will be whether the crash at issue occurred within that stretch of road."
3. On May 26, 2011, the United States provided a map of "the Navajo Nation showing the scene of the crash at issue in the Tsosie case is Indian Country" by electronic mail (copy of email attached as Exhibit 1)

4. Based upon applicable authority, Mr. Tsosie agrees that a pre-trial hearing be conducted to demonstrate that the ten mile stretch of road between miles 30 and 40 on Navajo Route 12 falls within the exterior boundaries of the Navajo reservation.
5. Upon the finding that the land in question is Indian Country, the jury can determine whether the “crash at issue occurred within [the] stretch of road.”

WHEREFORE, Mr. Tsosie agrees that the Court should make a pre-trial ruling that Navajo Route 12 between mile posts 30 and 40 falls within the exterior boundaries of the Navajo reservation and therefore is Indian Country.

Respectfully submitted,

By: _____-s- _____
Samuel L. Winder
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I hereby certify that on May 26, 2011
I filed the foregoing electronically through CM/ECF
System, which caused Counsel for the Government
Kyle T. Nayback and Mark T. Baker, to be served by
Electronic means, as more fully reflected
in the Notice of Electronic Filing.

Samuel Winder-s-electronically filed
Samuel L. Winder

